## ADDENDUM A

### Title 18 United States Code

Section 1341 provides:

**Frauds and Swindles**

Whoever, having devised or intending to devise any scheme or artifice to defraud, or for obtaining money or property by means of false or fraudulent pretenses, representations, or promises, or to sell, dispose of, loan, exchange, alter, give away, distribute, supply, or furnish or procure for unlawful use any counterfeit or spurious coin, obligation, security, or other article, or anything represented to be or intimated or held out to be such counterfeit or spurious article, for the purpose of executing such scheme or artifice or attempting so to do, places in any post office or authorized depository for mail matter, any matter or thing whatever to be sent or delivered by the Postal Service, or deposits or causes to be deposited any matter or thing whatever to be sent or delivered by any private or commercial interstate carrier, or takes or receives therefrom, any such matter or thing, or knowingly causes to be delivered by mail or such carrier according to the direction thereon, or at the place at which it is directed to be delivered by the person to whom it is addressed, any such matter or thing, shall be fined under this title or imprisoned not more than five years, or both. If the violation affects a financial institution, such person shall be fined not more than $1,000,000 or imprisoned not more than 30 years, or both.

## ADDENDUM B

The Louisiana Video Draw Poker Devices Statute, La. Rev. Stat. Ann. §§ 33:4862.1–4862.23 (West Supp. 1996), provided in pertinent part:

### PART V-B Video Draw Poker Devices

### § 4862.1. Short title and definitions

. . . .

D. Any license applied for, granted, or issued under the provisions of this Part is a pure and absolute privilege, the awarding, denial, or withdrawal of which is solely within the discretion of the division and, except as provided in this Part, without recourse at law. Any license issued or renewed under the provisions of this Part is not property or a protected interest under the constitutions of either the United States or the state of Louisiana.

[§§ 4862.2–.5 omitted]

### § 4862.6. State license qualifications; limitations; right to hearing

A. (1) The legislature hereby recognizes the importance of a controlled gaming industry to the development of the economy of the state of Louisiana. The legislature further recognizes that the success and growth of gaming are dependent upon public confidence and trust that gaming activities and particularly video draw poker gaming activities are conducted honestly and are free from criminal and corruptive elements. The state of Louisiana has a legitimate interest in providing strict regulation of all persons, practices, associations, and activities related to the operation of licensed establishments licensed to offer video draw poker devices, and the manufacture, supply, or distribution of video draw poker gaming devices and supplies, in order to maintain public confidence and trust in the video draw poker gaming

industry. The legislature hereby finds that the types of establishments which may place video draw poker devices at their licensed establishments each possess unique features, some of which are volume of business, number of establishments, and hours required of the division to insure suitability prior to licensing. Therefore, in order to provide the most effective regulation and control of the video draw poker gaming industry, it is necessary to develop three categories of licenses which may be issued to qualified establishments for the privilege of operating video draw poker devices.

. . . .

(4)(a) A person owning a qualified truck stop facility may be granted a license for the placement of not more than fifty video draw poker devices in his facility based on the fuel sales as provided in Subparagraph (b) of this Paragraph, in an area separated for adult patronage only, if all other requirements of this Part are met. There shall be only one license granted for the operation of video draw poker devices at each qualified truck stop facility.

. . . .

[§ 4862.7 omitted]

**§ 4862.8. Powers and duties of division; restrictions; permits**

A. The division shall promulgate rules and regulations necessary to facilitate implementation of this Part and specifically to:

(1) Provide permit, application, and licensing procedures.

(2) Prescribe necessary application and reporting forms.

(3) Establish qualifications and duties of certified technicians.

(4) Provide for the protection of legitimate economic interests of licensees, creditors, and other parties involved in the operation, financing, manufacture, distribution, sale, and servicing of video draw poker devices and equipment.

B. The division may deny, condition, suspend, or revoke any license applied for or issued pursuant to the provisions of this Part for any violation of the provision of this Part or any rule or regulation of the division. In lieu of suspending or revoking a license issued pursuant to the provisions of this Part, the division may levy a fine not to exceed one thousand dollars per violation against any licensee. The division shall not levy a fine, condition the license of, or reinstate the license of any person or the approval of any device unless and until the person or device meets all criteria and requirements to be licensed or approved for play.

C. The division shall revoke or suspend the license of any person or approval of any device issued pursuant to the provisions of this Part if the division finds that the person licensed or device approved did not meet, at the time of application, or does not continue to meet the suitability or any other requirements specified in this Part.

D. For a period of five years from the date of the revocation of the license, no license authorized by this Part may be granted to any person whose previous license was revoked by the division.

E. The division and its agents may:

(1) Inspect and examine all premises where video draw poker devices are offered for play or where video draw poker devices or equipment are manufactured, sold, or distributed.

(2) Inspect all video draw poker devices and related equipment and supplies in, upon, or about such premises.

(3) Summarily seize and remove from such premises and impound any video draw [*sic*] devices, equipment, or supplies for the purpose of examination and inspection.

(4) Promulgate rules and regulations requiring licensees or former licensees to maintain specified records, including financial and income records, of video draw poker devices and operations.

(5) Promulgate rules and regulations to provide for minimum physical security standards at licensed establishments to maintain safety and integrity within the gaming area.

F. The division shall have the authority to issue subpoenas and to compel the attendance of witnesses before it, to administer oaths at its official proceedings, to require testimony under oath, and to punish as contempt the failure to obey its orders. Appeal of an action by the division holding a person in contempt shall be to the Nineteenth Judicial District Court.

G. The division, within ten days after granting a license for the placement of video draw poker devices in a licensed establishment, shall notify the local governing authority of the municipality or, if not in a municipality, of the parish where the licensed establishment is located of the approval and granting of the license.

**§ 4862.9. Video draw poker crimes and penalties; unauthorized devices**

A. Any person who intentionally makes, causes to be made, or aids, assists, or procures another to make a false statement in any report disclosure, application, permit form, or any other document required by this Part may, upon conviction, be imprisoned, with or without hard labor, for not more than ten years or be fined not more than ten thousand dollars, or both.

B. Any person who possesses or operates a gambling device as described in R.S. 15:31, or a video draw poker device as described in this Part without the license required by this Part or at a location or on premises not authorized by the division shall, upon conviction, be imprisoned with or without hard labor for not more than ten years or be fined not more than ten thousand dollars, or both.

C. Skimming of video draw poker proceeds is the intentional excluding, or the taking of any action in an attempt to exclude, anything or its value from the deposit, counting, collection, or computation of revenues from video draw poker. Whoever commits skimming of video draw poker proceeds shall be imprisoned at hard labor for not less than one year nor more than ten years, without benefit of probation, parole, or suspension of sentence, and may be fined not more than twenty-five thousand dollars.

D. Any video draw poker device used or offered for play in violation of the provisions of this Part shall be considered a gambling device for purposes of R.S. 15:31.

**§ 4862.10. Suitability requirements**

A. No person may be eligible to apply or be granted a license under the provisions of this Part if he has been convicted in any jurisdiction of any of the following offenses within ten years prior to the date of the application or less than ten years has elapsed between the date of application and the successful completion or service of any sentence, deferred adjudication, or period of probation or parole for any of the following:

(1) Any offense punishable by imprisonment for more than one year.

(2) Theft or any crime involving false statements or declarations.

(3) Gambling as defined by the laws or ordinances of any municipality, any parish, any state, or the United States.

B. (1) No person shall be granted a license under the provisions of this Part unless the applicant has demonstrated to the division that he is suitable for licensing. For purposes of this Part, suitability means the applicant or licensee is:

(a) A person of good character, honesty, and integrity.

(b) A person whose prior activities, arrest or criminal record if any, reputation, habits, and associations do not pose a threat to the public interest of this state or to the effective regulation of video draw poker, and do not create or enhance the dangers of unsuitable, unfair, or illegal practices, methods, and operations in the activities authorized by this Part and financial arrangements incidental thereto.

(c) Likely to conduct business as authorized by this Part in complete compliance with the provisions of this Part.

(d) Not prohibited from making application or disqualified from licensure under the provisions of Subsection A of this Section.

(e) A person who does not owe the state or local governing authority of the parish or municipality in which the establishment is located any delinquent sales taxes, penalties, or interest, excluding items under formal appeal or protest as provided by law.

(2) An applicant who is not disqualified from making application or licensure as a result of Subsection A of this Section shall still be required to demonstrate to the division that he otherwise meets the remaining requirements for suitability, particularly those contained in Subparagraphs (1)(a), (b), and (c) of this Subsection. Evidence of or relating to an arrest, summons, charge, or indictment of an applicant, or the dismissal thereof, shall be considered by the division

even if the arrest, summons, charge, or indictment results in acquittal, deferred adjudication, probation, parole, or pardon.

C. All licensees and persons required to be qualified under this Chapter shall have a continuing duty to inform the division of any action which they believe would constitute a violation of this Chapter. No person who so informs the division shall be discriminated against by an applicant or licensee because of supplying such information.

D. Every person who has or controls directly or indirectly more than a five percent ownership, income, or profit interest in an entity which has or applies for a license in accordance with the provisions of this Part, or who receives more than five percent revenue interest in the form of a commission, finder's fee, loan repayment, or any other business expense related to the gaming operation, or who has the ability, in the opinion of the division, to exercise a significant influence over the activities of a licensee authorized or to be authorized by this Part, shall meet all suitability requirements and qualifications for licensees. For the purposes of this Part, all gaming related associations, outstanding loans, promissory notes, or other financial indebtedness of an applicant or licensee must be revealed to the division for the purposes of determining significant influence and suitability.

E. A person whose application for a license has been denied, or whose license has been issued subject to a condition or suspended or revoked, or against whom a fine has been levied has the right to a hearing before the division. The hearing must be conducted in accordance with the provisions of the Administrative Procedure Act. All parties, including the division, shall have the right to appeal any adverse ruling to the Nineteenth Judicial District Court. The division shall be provided with legal counsel and representation through the office of general counsel of the Department of Public Safety and Corrections. The division may seek additional legal assistance upon the

recommendation and advice of its legal counsel. The office of general counsel of the Department of Public Safety and Corrections may issue advisory opinions relative to the statutes that are enacted and rules that are adopted by the division. Such advisory opinions may be issued within ten days of the receipt of a written request for opinion. In no event shall an advisory opinion have the effect of law.

**§ 4862.11. Licensing by division; fees; franchise payments; enforcement activities**

A. The division shall annually issue the following kinds of licenses to qualified persons who meet the definition provided for in R.S. 33:4862.1 and the state license qualifications set forth in R.S. 33:4862.6 and who comply with the provisions of this Part:

| | | |
|---|---|---|
| (1) | Manufacturer | $20,000 |
| (2) | Distributor | $10,000 |
| (3) | Service Entity | $2,000 |
| (4) | Device Owner | $2,000 |
| (5) | Device Operation: | |
| | (a) A restaurant, bar, tavern, cocktail lounge, club, motel, or hotel | $250 |
| | (b) (i) A Louisiana State Racing Commission licensed pari-mutuel wagering facility | $1,250 |
| | (ii) A Louisiana State Racing Commission licensed offtrack wagering facility | $1,000 |
| | (c) A qualified truck stop facility | $1,000 |
| (6) | Licensed Establishment | $100 |

B. A device owner shall pay a device owner fee for the privilege of owning and operating video draw poker devices and shall not be required to pay more than one device owner fee. A separate device operation fee, payable by the device owner, shall be levied for each video draw poker device placed by the device owner at a licensed establishment. The device operation fee may be paid in quarterly installments.

C. The device owner fee shall be due and payable in addition to any licensed establishment fee resulting from the placement of a video draw poker device at that establishment. If more than one video draw poker device is placed at a licensed establishment, only one licensed establishment fee is due for that establishment.

D. (1) Each device owner shall remit to the division a franchise payment, in an amount equal to a percentage of the net device revenue derived from the operation of each video draw poker device owned by him. The amount of the percentage shall be based on the type of licensed establishment authorized by the division for the placement of video draw poker devices, as follows:

(a) A restaurant, bar, tavern, cocktail lounge, club, motel, or hotel . . . . . 26%.

(b) A qualified truck stop facility . . . . . 32.5%.

(2) Notwithstanding the provisions of Paragraph (1) of this Subsection, when the distribution of net device revenues is governed by R.S. 33:4862.18, the franchise payment shall be twenty-two and one-half percent of the net device revenues.

(3) Revenues received from franchise payments shall be deposited in the state treasury and may be used for enforcement activities, subject to legislative appropriation, in accordance with the provisions of R.S. 33:4862.12.

(4) Of the amount attributable to the payment of franchise fees as required in this Section, an amount equal to the avails of one-half of one percent of the franchise fee rate shall be allocated as provided in R.S. 33:4862.12 and appropriated by the legislature as provided in R.S. 33:4862.23.

E. No license shall be issued by the division except upon receipt of a sworn application and a finding by the division that the applicant, the application, and all persons described in R.S. 33:4862.10 meet the requirements of that Section.

F. No person who is licensed as or has a direct or indirect financial interest in an entity licensed as a manufacturer of video draw poker devices shall be licensed as a distributor or device owner or have his premises licensed for operation of video draw poker devices, pursuant to the provisions of this Part.

G. Any license issued pursuant to the provisions of this Part shall be personal to the licensee to whom it was issued and shall not be transferable.

H. A processing fee for applications shall be charged by the division as follows:

(1) New applications for establishments having three devices, one thousand dollars.

(2) New applications for truck stop facilities, ten thousand dollars.

(3) Renewal applications for facilities, having three devices and pari-mutuel wagering facilities, one hundred dollars.

(4) Renewal applications for truck stop facilities, one thousand dollars.

[§§ 4862.12—.23 omitted]